

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re: Kimberly Anne Shannon, Debtor)
)

Case No. 17-35991-KLP
Chapter 13

MOTION TO DISMISS CASE WITH PREJUDICE

COMES NOW Suzanne E. Wade, Chapter 13 Trustee, and moves this Court to dismiss the case of Kimberly Anne Shannon (the “Debtor”), with prejudice and a prohibition from re-filing a bankruptcy case under any chapter of the Bankruptcy Code, in any jurisdiction in the United States, for a period of at least two (2) years; and in support thereof states as follows:

Parties

1. Kimberly Anne Shannon is not represented by counsel in this case.
2. On or about December 1, 2017, Suzanne E. Wade was appointed Chapter 13 trustee in this case. She continues to serve as the Chapter 13 Trustee in this case.

Jurisdiction and Venue

3. This motion is commenced pursuant to Rule 9013 of the Federal Rules of Bankruptcy Procedure.
4. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. §§ 105 and 1307(c). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A) and (J).
5. This Motion is brought by the Trustee in furtherance of her duties as set forth in 11 U.S.C. § 1302(b), and is filed for the specific purpose of having the dismissal of this case be with prejudice with a prohibition from re-filing any bankruptcy case under any chapter of the Bankruptcy Code in any jurisdiction of the United States for a period of at least two (2) years.

Background

6. On or about December 1, 2017 (the “Petition Date”), the Debtor filed a voluntary petition for relief under Chapter 13 of the Bankruptcy Code, 11 U.S.C. § 101, et seq. (the “Bankruptcy Code”), designated as Case Number 17-35991-KLP (the “Current Case”).
7. Prior to the Current Case, the Debtor has filed one Chapter 7 case and three Chapter 13 cases, three of which have been dismissed. The cases can be summarized as follows:
 - a. The first case was filed on March 20, 2014, under the name Kimberly Anne Worsham-Shelton under Chapter 7. The Discharge of Debtor was entered on July 2, 2014. (Case No. 14-31465-KRH)

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- b. The second case, filed June 12, 2015, under the name Kimberly Anne Worsham-Shelton, was dismissed by Order entered July 28, 2015 after the Debtor failed to appear at the § 341 Meeting of Creditors (Case No. 15-33001-KLP).
 - c. The third case, filed May 4, 2017, was dismissed by Order on July 27, 2017, after the Debtor failed to appear at the § 341 Meeting of Creditors (Case No. 17-32330-KRH).
 - d. The fourth case, filed September 19, 2017, was dismissed by Order on October 26, 2017 upon the Court's denial of the Debtor's Motion to Waive the Credit Counseling Requirement and the Court's denial of the Debtor's Motion to Reconsider (Case No. 17-34692-KRH).
8. On December 6, 2017, the Court issued a Notice to Cure Credit Counseling Certification Deficiency (the "Notice"). The Notice advised that pursuant to Local Bankruptcy Rule 1007-1(I)(2) the Debtor must file with the Court certificate of credit counseling. The Notice also provided that failure to cure the credit counseling deficiency by December 15, 2017 would result in the automatic dismissal of the case.
9. Upon information and belief, the Debtor has failed to cure the credit counseling deficiency required by the foregoing Notice.

Argument

10. 11 U.S.C. § 105 provides, in pertinent part, that "[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a) (2016).
11. Pursuant to Local Bankruptcy Rule 1007-1 (I)(2), failure to cure credit counseling deficiency would result in the dismissal of case.
12. In addition, the Trustee would suggest the Debtor's history of repetitive bankruptcy filings demonstrates a lack of good faith, and is prejudicial to creditors.
13. Therefore, dismissal is appropriate pursuant to 11 U.S.C. § 1307(c)(1) and (c)(3).
14. In addition to dismissal, the Trustee seeks an order preventing the Debtor from filing another bankruptcy case for a period of at least two (2) years.

WHEREFORE, the Chapter 13 Trustee, by counsel, respectfully requests the Court dismiss this case with prejudice against the Debtor filing any other bankruptcy case in any jurisdiction in the United States under any chapter of the Bankruptcy Code for a period of at least two (2) years from the entry of

this Order on the Court's docket, and grant any other and further relief which the Court deems equitable and just.

Respectfully submitted,

Date: December 19, 2017

/s/ Suzanne E. Wade
Chapter 13 Trustee

CERTIFICATE OF SERVICE

I hereby certify a true copy of the foregoing MOTION TO DISMISS CASE WITH PREJUDICE was served electronically or by first-class mail, postage prepaid, this 19th day of December, 2017, upon the following parties:

Kimberly Anne Shannon, PRO SE Debtor
3616 Luckylee Crescent
North Chesterfield, VA 23234

Padma Vaghela
Claims Processor for Capital One Auto Finance
AIS Portfolio Services, LP
P. O. Box 165028
Irving, TX 75016

/s/ Suzanne E. Wade
Chapter 13 Trustee

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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re: Kimberly Anne Shannon, Debtor)	Case No. 17-35991-KLP
)	Chapter 13
3616 Luckylee Crescent)	
North Chesterfield, VA 23234)	
)	
XXX-XX -6679)	

NOTICE OF MOTION TO DISMISS CASE WITH PREJUDICE, AND HEARING THEREON

Suzanne E. Wade, Chapter 13 Trustee, has filed with the Court a Motion to Dismiss Case With Prejudice (the "Motion") in the above-captioned case.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. If you do not have an attorney, you may wish to consult one.

If you do not want the Court to grant the relief sought in the Motion, or if you want the Court to consider your views on the Motion, then on or before January 10, 2018, you or your attorney must:

(X)File with the Court, at the address shown below, a written response pursuant to Local Bankruptcy Rule 9013-1(H). If you mail your response to the Court for filing, you must mail it early enough that the Court will **receive** it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
701 East Broad Street, Suite 4000
Richmond, Virginia 23219

You must also mail a copy to:

Suzanne E. Wade, Chapter 13 Trustee
Post Office Box 1780
Richmond, Virginia 23218-1780

(X) Attend a hearing, which has been scheduled for **January 17, 2018 at 9:30 a.m. in the United States Bankruptcy Court, 701 E. Broad Street, Courtroom 5100, Richmond, VA 23219 before the Honorable Judge Keith L. Phillips.**

If you or your attorney do not take these steps, the Court may decide that you do not oppose the

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relief sought in the Motion, and may enter an order granting that relief.

Date: December 19, 2016

/s/ Suzanne E. Wade
Chapter 13 Trustee

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I hereby certify a true copy of the foregoing MOTION TO DISMISS CASE WITH PREJUDICE was served electronically or by first-class mail, postage prepaid, this 19th day of December, 2017, upon the following parties:

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/s/ Suzanne E. Wade
Chapter 13 Trustee

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